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SUBJECT: CANADIAN FORCES' INVESTIGATION FINDS AFGHAN DETAINEE
ALLEGATIONS "UNFOUNDED"

REF: OTTAWA 890; OTTAWA 906; OTTAWA 944

¶1. (SBU) Summary: On December 21, the Canadian Forces National Investigation Service (CFNIS) -- the independent investigative arm of the Canadian Forces Military Police (CFMP) -- cleared the Canadian Forces (CF) of almost all allegations of mistreatment of Afghan detainees while in CF custody between 2006 and 2009. Despite the Christmas parliamentary recess, the opposition parties nonetheless appear determined to flex their muscles against the minority government and not to let the detainee controversy lag. Opposition members of the House of Commons Special Committee on Canada's Mission in Afghanistan (AFGH) met unofficially (without government members) on December 22 in Ottawa to hear testimony from a retired diplomat and an NGO representative. Speculation grows that the government may prorogue (temporarily suspend) Parliament until March to cool off the debate and to halt the committee's investigation. End summary.

ABUSE ALLEGATIONS AGAINST CANADIAN FORCES "UNFOUNDED"

¶2. (U) Late on December 21, the Canadian Forces Military Police (CFMP) announced the results of Canadian Forces National Investigation Service's (CFNIS) investigations into allegations of mistreatment of Afghan detainees in CF custody between 2006 and ¶2009. In all investigations completed to date, the CFNIS found allegations of mistreatment by CF members "unfounded" and commented that CF members had "acted appropriately when interacting with the detainees." The CFMP documented each complaint with a separate occurrence report. Examples of the allegations received by the CFMP included complaints from detainees of forced adoption of a new religion and not being afforded the time to go to the washroom or perform ablutions for religious rituals.

¶3. (U) The CFMP filed one occurrence report in 2006, and two in ¶2007. In all three cases, the CFNIS determined that the allegations were unfounded. The Military Police Complaints Commission (MPCC) and a Board of Inquiry conducted separate investigations into one of the 2007 incidents. Both bodies supported the findings that allegations of mistreatment by CF were unfounded, although the MPCC continues to address the conduct of the CFMP as part of a separate investigation. The CFMP initiated six occurrence reports in 2008. CFNIS found the allegations unfounded in five of the six cases; one investigation is ongoing. With respect to the ongoing investigation, CFNIS cleared CF members regarding mistreatment of detainees, but continues to examine other remaining allegations. In 2009, the CFMP filed three occurrence reports. In all three cases, CFNIS determined that the allegations were unfounded. The CFMP statement announcing these findings underscored that the CFMP "takes allegations of alleged detainee mistreatment and abuse seriously and investigates to determine the facts, analyze the evidence and, if warranted, lay appropriate charges."

14. (U) Separately, court martial proceedings will begin on January 25 against a CF captain accused of killing a severely wounded Taliban fighter in Afghanistan's Helmand province in October 2008. The enemy combatant's wounds were reportedly judged too severe to treat on the battlefield. Captain Robert Semrau faces charges of second degree murder in the case. Semrau is the first Canadian soldier to face charges in relation to the death of an alleged enemy fighter in Afghanistan.

KEEPING UP THE PRESSURE

15. (U) Members from the Liberal Party, New Democratic Party, and Bloc Quebecois on the House of Commons' Special Committee on Canada's Mission in Afghanistan (AFGH) met informally (without members from the ruling Conservative Party) in Ottawa on December 22 to continue hearings into the Afghan detainee issue (reftels). The House of Commons had adjourned on December 10, until January 25, but individual committees may continue to meet during recess at the written request of at least four committee members. Opposition

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members had previously tried to convene the AFGH on December 15, but all Conservative members skipped the meeting, depriving it of a quorum. Committee rules allow meetings to function without a quorum with as few as three (out of a total 12) members, but at least one government member must be present to make a meeting official. Under House of Commons rules, in these unofficial committee meetings, proceedings are not recorded or transcribed, members cannot exercise any of the powers of the committee (e.g. to order or subpoena documents or witnesses), are not bound by regular committee rules and practices, and are not entitled to any of the privileges (such as immunity from prosecution for libel) associated with formal parliamentary proceedings. In contrast, when parliament is prorogued, all Committee functions -- formal and informal -- terminate.

16. (U) Liberal Vice Chair Byron Wilfert chaired the December 22 informal AFGH meeting, while accusing the government of "thwarting" the House of Commons' resolution of March 2008 to provide parliamentary oversight over Canada's Afghan mission. The informal AFGH meeting heard from two witnesses: civil rights lawyer Paul Champ (who represents Amnesty International Canada and the British Columbia Liberties Association -- BCLA) and Gar Pardy, a retired diplomat and former head of consular affairs at the Department of Foreign Affairs). (Amnesty International Canada and BCLA's 2007 complaint to the MCPP of alleged abuse of detainees and a separate suit before the Federal Court to halt detainee transfers had spurred the original debate on detainees; Pardy coordinated the signatures of more than 100 former Canadian diplomats on a recent public letter condemning the government's treatment of diplomat Richard Colvin, who testified before the AFGH earlier this month.) Prior to the meeting, Champ promised to urge the committee members to move the detainee investigation away from the "hyper partisan process" on Parliament Hill to an independent commission that could provide guidance for a clear military policy on detainee transfers procedures in any war theatre.

CONSERVATIVES WON'T PLAY BALL

17. (U) On December 21, Conservative MP Laurie Hawn (parliamentary secretary for national defence) notified the AFGH committee clerk in a letter that Conservative members would not attend the December 22 meeting. Hawn argued that "only the most serious of

emergencies" should interfere with time spent with family over the holidays and "there is presently nothing urgent needing study on the subject of Taleban [sic] prisoners." Hawn insisted that Canada's improved, post-2007 detainee transfer policy "remains the "gold standard of our NATO allies."

18. (SBU) Comment: The tactical skirmishes over AFGH hearings are an opportunity for the opposition to flex its muscles against the minority government, but the detainee debate is still largely confined to Parliament Hill and media circles. Opposition tactics - and Conservative hardball against them -- are feeding increasing speculation that the government may prorogue Parliament (as it did one year ago to avoid losing a confidence vote) to try to lower the temperature on detainees and to head off a January confrontation over detainee documents. In year-end interviews (taped but not yet aired), PM Stephen Harper reportedly did not rule out prorogation, while pledging to bring forward a federal budget in March (not in January, as in 2009). The clear CFNIS findings that allegations of mistreatment of Afghan detainees by CF were unfounded were good news for the CF in the midst of the detainee controversy, but are a bit of a red herring, since the allegations of mistreatment have been against Afghan authorities, not the CF, in cases where the CF had transferred detainees to Afghan security forces. All political parties have taken pains to underscore that the conduct of the CF is not at issue in the detainee controversy.

BREESE